**HIGH COURT OF UTTARANCHAL AT NAINITAL**

(Court's order whether the case is or not approved for reporting)

(Chapter VIII Rule 32 (2)(b)

Description of the case.

W.P. No. 1279 of 2003

Km. Anita Jacob vs. State and others

Approved for reporting.

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~~Not approved for reporting~~

Date of decision. 22.10.2003

Initial of Judge

**HIGH COURT OF UTTARANCHAL AT NAINITAL.**

Writ Petition No. 1279 of 2003 (SS)

Km. Anita Jacob D/o Victor Admiral Jabcob
AM, Primary Health Centre, Jairikhal
Dist Pauri Garhwal ……..…… Petitioner

Versus

1. State of Uttaranchal
2. Chief Medical Officer,
   District Pauri Garhwal
3. Medical Officer, P.H.C. Jairikhal
4. Smt. Shashi Bisht, ANM Sub Centre, Chaur
   District Pauri Garhwal ……. Respondents

Sri R.P. Sharma, Advocate for the petitioner
Standing Counsel for the respondent

Dated: 22.10.2003

**Hon'ble Rajesh Tandon, J.**

Heard the learned counsel for the parties at length.

The present writ petition has been filed for issue of a writ or direction in the nature of certiorari calling for the records and quashing the order dated 31.07.2003 passed by the respondents transferring the petitioner from P.H.C. Jairikhal, District Pauri Garhwal to Sub Centre, Chaur, District Pauri Garhwal.

Briefly stated the facts giving rise to the present writ petition are that the petitioner is posted as A.N.M. in Primary Health Centre, Jairikhal, District Pauri Garhwal to sub Centre, Chaur, District Pauri

Garhwal. Counsel for the petitioner has stated inter alia that she is suffering from stomach disease and she was also operated and is not medically fit and the petitioner is taking treatment from Government Hospital Kotdwar which is nearest to Jairikhal.

It was further stated that the transfer order is mala fide as Smt. Shashi Bisht who is originally posted at Primary Health Centre Chaur is working for the last 17 years by way of attachment at Jairikhal with the petitioner and by the impugned transfer order Smt. Shashi Bisht respondent no.4 has been retained at Jairikhal and only the transfer order has been passed transferring the petitioner.

The transfer order shows that the petitioner has been transferred in the administrative exigency as well as in the public interest and three persons were transferred by the order dated 9.10.2003.

So far as the transfer is concerned no interference can be made under Article 226 of the Constitution of India.

It has been held by the Apex Court in the case *Shilpi Bose and others vs. State of Bihar and others AIR 1991 SC 532* as under:

*"In our opinion, the courts should not interfere with a transfer order which are made in public interest and for administrative reasons unless the transfer orders are made in violation of any mandatory statutory rule or on the ground of mala fide. A Government servant holding a transferable post has no vested right to*

*remain posted at one place or the other, he is liable to be transferred from the one place to the other. Transfer order issued by the competent authority do not violate any of his legal rights. Even if a transfer order is passed in violation of executive instructions or orders, the Courts ordinarily should not interfere with the order instead affected party should approach the higher authorities in the Department. If the courts continue to interfere with day to day transfer orders issued by the Government and its subordinate authorities, there will be complete chaos in the Administration, which would not be conducive to public interest. The High Court over looked these aspects in interfering with the transfer orders."*

It is well settled that the transfer is an exigency of service. However option for the petitioner to approach the higher authorities is available and the petitioner are at liberty to approach the higher authority.

The petitioner may make a representation to the higher authority of the Department within a period of one month after obtaining certified copy of the order who shall pass appropriate orders in the light of the observations made above after hearing the petitioner.

The transfer order may be kept in abeyance for a period of three months only.

With the aforesaid observations the writ petition is disposed of.

No order as to costs.

22.10.2003 **(Rajesh Tandon, J.)**
*Dhyani